



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Scheduled Airlines Traffic Offices, Inc.--
Reconsideration

File: B-244852.2

Date: March 11, 1992

Josephine L. Ursini, Esq. for the protester,
Susan K. McAuliffe, Esq., and Michael R. Golden, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Request for reconsideration of prior dismissal for
untimeliness is denied where protester does not show that
prior decision contains errors of fact or law or information
not previously considered that warrants reversal of our
decision.

DECISION

Scheduled Airlines Traffic Offices, Inc. (SatoTravel)
requests that we reconsider our decision in Scheduled
Airlines Traffic Offices, Inc., B-244852, Oct. 24, 1991,
91-2 CPD ¶ 369, in which we dismissed its protest against
an alleged modification to Balboa Travel Incorporated's
contract (awarded in 1989) for the operation of commercial
Travel Management Centers (TMC) to meet the travel service
requirements of federal agencies located in Alameda County,
California. We dismissed the protest because it was not
filed within 10 working days of the date the basis for
protest was known or should have been known, as required by
our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1991).

We deny the request for reconsideration because the request
provides no basis for reconsidering our prior decision.

By letter of May 13, 1991, the Coast Guard notified
SatoTravel that the Coast Guard had been "directed" by the
Department of Transportation (DOT) and the General Services
Administration (GSA) "to use only the GSA . . . TMC" for
Alameda County (Balboa) for its required travel services and
that the protester, therefore, was required to terminate its
operation [servicing the Coast Guard in Alameda County] in
90 days. In its June 12 response to the Coast Guard,

SatoTravel sought clarification as to the date it was required to vacate the Alameda County Coast Guard locations and stated that the "unexpected" addition of the Coast Guard's travel requirements to Balboa's contract would be a "windfall" to that firm since, as the protester had discussed with the Coast Guard "several weeks" earlier, a review of the solicitation, Balboa's contract, and the Coast Guard's actual requirements "[indicate] that neither Balboa nor GSA ever intended to include Coast Guard Island travel within the scope of the contract." SatoTravel's June 12 letter was not a protest, the protester explains, but rather an attempt to encourage the Coast Guard to seek a possible "waiver" of GSA's requirement to use the TMC contractor and to issue (or have GSA issue) a separate solicitation to meet the Coast Guard's travel service requirements. On June 21, the Coast Guard contacted DOT for assistance in seeking such a waiver.

The protester called GSA on July 17 and was allegedly told that GSA was going to "modify" Balboa's contract to include the Coast Guard's requirements. (GSA denies the protester's allegation of being told of a proposed contract modification since, GSA contends, Balboa's existing contract already includes the Coast Guard's travel service requirements.) On July 18, the Coast Guard informed the protester of its efforts to seek a "waiver" from the GSA requirement. On July 19, SatoTravel filed its protest with our Office, essentially contending that, based on the solicitation's estimates of the travel services to be provided, Balboa's 1989 contract did not contemplate the provision of travel services to the Coast Guard and thus GSA's July 17 "final determination" to modify Balboa's contract was improper. On October 24, we dismissed SatoTravel's protest as untimely filed.

During the course of the initial protest, all parties submitted comments regarding the timeliness of the protest. SatoTravel argued that it had nothing to protest in May 1991 since GSA had not yet taken any protestable action. The protester, which does not challenge the Coast Guard's termination of its services, characterizes GSA's direction to the Coast Guard in May to use the GSA TMC contractor as a "proposed" action by GSA since the Coast Guard had subsequently made a request for a waiver from the direction. SatoTravel contends that its protest was timely filed with our Office within 2 days of what the protester considers to be GSA's July 17 "final determination" to have the Alameda County TMC (Balboa) provide travel services to the Coast Guard.

In support of its request for reconsideration of our prior dismissal, SatoTravel cites several decisions of our Office in which we have held that a protest is premature where the

agency is only proposing or considering certain action and has not yet determined the action to be taken (e.g., Sony Corp. of Am., B-224373.2, Mar. 10, 1987, 87-1 CPD ¶ 267; Singer Co., Inc., Kearfott Div., 58 Comp. Gen. 218 (1979), 79-1 CPD ¶ 26). Basically, SatoTravel contends it was not required to file its protest until GSA made a final determination on the requirement for the Coast Guard to use the GSA TMC contractor.

The protester, in essence, repeats arguments it made previously and expresses disagreement with our decision. Under our Bid Protest Regulations, to obtain reconsideration the requesting party must show that our prior decision may contain either errors of fact or law or present information not previously considered that warrants reversal or modification of our decision. 4 C.F.R. § 21.12(a). The repetition of arguments made during our consideration of the original protest and mere disagreement with our decision do not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101.3, Sept. 21, 1988, 88-2 CPD ¶ 274.


The protester has not presented any evidence to provide a basis for us to reconsider our dismissal of its protest. As we stated in our prior decision, the record shows that SatoTravel failed to file its protest, once it was notified in May of GSA's "direction" (i.e., requirement) for the Coast Guard to use the TMC contractor, until July 19. The record shows that SatoTravel was not given any information (following the time of the protester's May notice of GSA's direction) to indicate that GSA intended to reconsider that requirement. Thus, the protester wrongly characterizes GSA's direction to the Coast Guard in May as a "proposed" requirement and GSA's July 17 confirmation that Balboa would provide the services (by alleged contract modification or otherwise) as GSA's "final determination" of any proposed action. The cases cited by the protester are not controlling here because GSA was not proposing or considering a course of action in May. SatoTravel's June 12 letter to the Coast Guard essentially sets out the same information and arguments on the matter as raised in its July 19 protest to our Office, thus it is clear from the record that the protester knew or should have known its basis for protest more than 10 working days before its July 19 protest filing. SatoTravel chose to encourage the Coast Guard to seek a reversal of the GSA decision rather than to pursue a formal protest to GSA or our Office. The firm was entitled to make this business judgment, but its action does not provide grounds for tolling our timeliness requirements.

We also do not find persuasive SatoTravel's argument that since the Coast Guard informed the protester that it was seeking a waiver of the GSA requirement, SatoTravel did

not have anything to protest until July 17. Neither the protester's communications with the Coast Guard nor the Coast Guard's independent request for a waiver tolled the timeliness requirements for SatoTravel to have filed its bid protest since, as stated above, the protester was notified of the GSA requirement in May and received no subsequent information to show that GSA would reconsider that requirement. See Allied-Signal, Inc.--Recon., B-243555.2, July 3, 1991, 91-2 CPD ¶ 19.

So that parties have a fair opportunity to present their cases and so that protests can be resolved in a reasonably speedy manner without unduly disrupting the procurement process, our Bid Protest Regulations contain strict timeliness requirements for filing protests. To waive our timeliness requirements for the protester's sole benefit would only serve to compromise the integrity of those rules. Hartridge Equip. Corp.--Recon., B-219982.2, Oct. 17, 1985, 85-2 CPD ¶ 418.

The request for reconsideration is denied.


for James F. Hinchman
General Counsel